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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
09/334,649	06/17/99	HEINZ T	P3232-9003

QM32/0327
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EXAMINER

LEE, K

ART UNIT	PAPER NUMBER
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3764

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DATE MAILED: 03/27/00

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary

Application No.
09/334,649

Applicant(s)

Heinz

Examiner

Kim M. Lee

Group Art Unit
3764



☒ Responsive to communication(s) filed on Dec 22, 1999

☐ This action is **FINAL**.

☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 1035 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 3 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

Disposition of Claim

☒ Claim(s) 1-35 is/are pending in the application

Of the above, claim(s) _____ is/are withdrawn from consideration

☐ Claim(s) _____ is/are allowed.

☒ Claim(s) 1-35 is/are rejected.

☐ Claim(s) _____ is/are objected to.

☐ Claims _____ are subject to restriction or election requirement.

Application Papers

☒ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☒ The drawing(s) filed on Jun 17, 1999 is/are objected to by the Examiner.

☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.

☒ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☐ All ☐ Some* ☒ None of the CERTIFIED copies of the priority documents have been

☐ received.

☐ received in Application No. (Series Code/Serial Number) _____

☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

*Certified copies not received: _____

☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

☐ Notice of References Cited, PTO-892

☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). _____

☐ Interview Summary, PTO-413

☒ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Notice of Informal Patent Application, PTO-152

--- SEE OFFICE ACTION ON THE FOLLOWING PAGES ---

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DETAILED ACTION

Information Disclosure Statement

1. The IDS papers filed 12/21/99 and 12/22/99 have been received, which papers have been placed in the application file wrapper.

Drawings

2. This application has been filed with informal drawings which are acceptable for examination purposes only. Formal drawings will be required when the application is allowed.
3. The drawings are objected to because in Fig. 2, on portion 12a, "14c" should be labeled --14a-- Correction is required.

Specification

4. The disclosure is objected to because of the following informalities:
Page 3, line 6, "an doffing" should read --and doffing--;
Page 11, line 6, "24" should read --24a--;
Page 13, line 13, after the term "invention" insert --(Fig.5)--;
Page 13, lines 27-31, the applicant designates reference character "54" as a "liner";
however, on page 14, line 20, the applicant designates "54" as "an edge or bias binding". The

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applicant is advised to remain consistent when either designating or referring to reference characters; and

Page 18, line 16, "262,," should read --262,--.

Appropriate correction is required.

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claims 1, 2, 4, 5, 8, 10-16, 19, 21-35 rejected under 35 U.S.C. 102(b) as being clearly anticipated by U.S. Patent No. 5,599,287 ("Beczak, Sr. et al.").

7. Claims 1-9, 11-18, and 21 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by U.S. Patent No. 4,508,110 ("Modglin").

8. Claims 1, 2, 4, 5, 8, 10-16, 19 and 21 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by U.S. Patent No. 5,634,891 ("Beczak, Sr. et al.").

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Claim Rejections - 35 USC § 103

9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.


10. Claim 20 is rejected under 35 U.S.C. 103(a) as being unpatentable over Modglin in view of U.S. Patent No. Re. 35,940 ("Heinz et al.").

Regarding claim 20, Modglin fails to teach pulleys having spool diameters. Instead, Modglin discloses lacing holes which act as pulleys. However, Heinz teaches pulleys comprising spools as an alternate means for running a cable therethrough to tighten the orthotic device about the user.

It would have been an obvious design choice to one having ordinary skill in the art to modify Modglin with the addition of pulleys comprising spools in order to provide an alternate means for running cable therethrough to tighten the orthotic device about the user.

Any inquiry concerning this communication should be directed to KimM. Lee at telephone number (703) 308-1191.

kml
March 23, 2000


Kim M. Lee
Patent Examiner
AU3764